

REMARKS

Claims 1-71 and 76-79 were previously pending for this application. Claims 36-51 have been deemed to appear allowable by the Examiner. Claims 53-71 and 76-79 have been withdrawn from consideration. Applicants have herewith submitted new claims 80-87 and have amended claims 1, 21, 29, 41, 43, 45, 47 and 49. The new claims and amended claims are fully supported by the original application as filed and do not constitute new matter. For example, support for the amino acid substitutions (to the native amino acid sequence of the HR1 region of gp41) of the invention may be found throughout the original specification, particularly in section "A. Sequence" at page 10, line 29 to page 14, line 1.

Applicants wish to thank Examiner Jeffrey Parkin for courtesies extended during an personal interview conducted November 30, 2006 with Applicant's representatives, including Bud Nelson and Greg Gibbs, and in directly related follow-up telephonic discussions in early 2007 with Greg Gibbs. All claims were discussed generally; no exhibits or demonstratives were shown. A general agreement was reached as to the claims and the nature of amendments to be made thereto; the amendments and remarks herein thus reflect the content of these discussions.

1. **The Rejection Under 35 U.S.C. §112, Second Paragraph ("Definiteness"), Should Be Withdrawn**

The Examiner has rejected claim 1-36, 41-50 and 52 for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention, under 35 U.S.C. § 112, second paragraph. In particular, the Examiner believes that reference in the claims to an "amino acid 'derived' from the HR1 region" is vague and indefinite. In response, and in effort to clarify the present inventive subject matter and the scope of the the claims, Applicants have herewith amended the language of the applicable claims in such manner that the term "derived from" is no longer articulated in the claims, and the claims further now describe the sequences with particularity and establish a set range of lengths for the peptides of the claims. Explicit support relating to lengths of these sequences may be found in the specification as originally filed, particularly at page 10, lines 33-34. Applicants believe that the present amendments have addressed the Examiner's concerns and obviate the present rejection under 35 U.S.C. § 112, second paragraph. Applicants thus ask that the Examiner reconsider and withdraw this rejection.

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Amendment dated March 5, 2007
Reply to Office communication dated October 5, 2006

2. **The Rejection Under 35 U.S.C. §112, First Paragraph (“Written Description”), Should Be Withdrawn**

The Examiner has rejected claim 1-36, 41-50 and 52 under 35 U.S.C. § 112, first paragraph, for allegedly containing subject matter not described in the specification in such fashion to convey to one of skill in the relevant art that the inventors possessed the claimed invention at the time of filing. In particular, the Examiner raises issues as to whether the original application supported variants and polymorphisms of SEQ ID NO:1 as broadly as presented in the claims.

In response, Applicants note that the relevant claims have been amended, in an effort to promote clarity, so as, *inter alia*, to particularize the SEQ ID NO:1 polymorphisms as being those presented in the sequences listed in FIG. 2 of the original application. Additional discussion in the specification for these polymorphisms of SEQ ID NO:1 may be found, *e.g.*, at page 7, lines 20-30, page 11, lines 16-21, page 12, line 13-17; and page 13, lines 14-16. As such, one of ordinary skill in the art would thus readily recognize that Applicants had possession of the claimed subject matter at the time of filing. Applicants believe that the present amendments to the claims hereby obviate the present rejection under 35 U.S.C. § 112, first paragraph, and Applicants ask that the Examiner reconsider and withdraw this rejection under 35 U.S.C. § 112, first paragraph. Applicants further respectfully request that the Examiner grant an allowance for the new and pending claims as currently recited, and to rejoin claims 53-71 and 76-79 upon the determination that an allowance of claims is proper.

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CONCLUSION

Applicants respectfully request entry of the amendment and remarks into the file of the application. Should any issue remain, the Examiner is respectfully encouraged to telephone the undersigned to discuss the same. In the event any additional fee is required, beyond that which is included herewith, please charge the required fee to Jones Day Deposit Account No. 50-3013.

Respectfully submitted,



Reg. No.
51,036

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Enclosures